

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) ATOMP004			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____	Application Number 10773755	Filed Feb. 6, 2004			
	First Named Inventor Brian Y. Lim				
	Art Unit 1731	Examiner R. J. Kemmerle III			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding-bottom: 10px;"><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input checked="" type="checkbox"/> attorney or agent of record. 39,626 Registration number _____</p><p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p></td><td style="width: 50%; vertical-align: top; padding-bottom: 10px; border-left: 1px solid black; padding-left: 10px;"><p>/Melvin D. Chan/</p><p style="text-align: center;">Signature Melvin D. Chan</p><hr/><p style="text-align: center;">Typed or printed name 408-701-0035</p><hr/><p style="text-align: center;">Telephone number Feb. 11, 2008</p><hr/><p style="text-align: center;">Date</p></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. 39,626 Registration number _____</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>	<p>/Melvin D. Chan/</p> <p style="text-align: center;">Signature Melvin D. Chan</p> <hr/> <p style="text-align: center;">Typed or printed name 408-701-0035</p> <hr/> <p style="text-align: center;">Telephone number Feb. 11, 2008</p> <hr/> <p style="text-align: center;">Date</p>
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<input type="checkbox"/> *Total of _____ forms are submitted.					

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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United States Patent and Trademark Office

Application No.: 10/773,755
Confirmation No.: 4021
Customer No.: 51111
Docket No.: ATOMP004

Commissioner for Patents
POB 1450
Alexandria, VA 22313-1450

Reasons for Pre–Appeal Brief Review Request

Dear Commissioner:

Applicants request a pre–appeal brief conference review because the rejections of record are clearly based on legal and factual error.

Claims 21–25 and 31

The examiner’s section 103 rejection of claims 21–25 and 31 is improper as discussed on page 8 of the June 27, 2007 response: Beshoory does not show or suggest a housing where “*input fluid enters the interior chamber only through at least one of the first or third opening*,” as recited in claim 21. Rather, Beshoory has at least three openings (i.e., gas inlet 43, apertures 33, or gas outlet 44) through which a fluid (such as a gas) may be input to (or output from) tube 40. Beshoory, column 2, lines 10, 43–44, and 56–60.

In the final office action, the examiner states:

While Beshoory discloses additional openings in the tube (apertures 33), they are needed only for flowing a purging gas through the tube in situations where a volatile gas is used or created during the heat treatment (Col 2 lines 56-66). Thus it would have been obvious to one of ordinary skill in the art, at the time of invention by applicant, that when such a purge was not necessary that the fluid only enter the interior chamber through the fluid inlet 43.

The examiner’s statement regarding apertures 33 is not correct. Apertures 33 in Beshoory are not optional, but required. The subject of Beshoory is a thermobalance. Column 1, lines 65–68; column 2, lines 1–5. To perform gravimetric measurements, the thermobalance has a sample beam 71 and pan 72. Column 2, lines 32–35. The sample beam extends through an aperture 33.

Id. This aperture 33 cannot be omitted or else it would not be possible for the sample beam to extend into outer tube 40. Without aperture 33, the entire purpose of Beshoory would be ruined.

So, aperture 33 is required and allows gas to enter tube 40 since there is nothing (e.g., a valve) to prevent this from happening. Clearly, Beshoory is different from what is claimed.

For at least this reason, claim 21 should be allowable. Furthermore, claims 22–25 and 31 are dependent on claim 21 and allowable over the cited reference for at least similar reasons.

Claim 31

Additionally, claim 31 recites “wherein *said second end of said housing comprises no openings*.” In the final office action, the examiner states:

Referring to claim 31, Beshoory does not disclose where the second end of said housing comprises no openings. However, the openings on the second end of the housing disclosed by Beshoory (apertures 33), as discussed above, are required only for an optional purge step when an inert gas is required to remove volatiles from the housing. When such a step is not required, it would be obvious to one skilled in the art that such openings would not be needed on the second end of the housing, and thus it would be obvious to create a housing having no openings on the second side.

For the reasons given above for claim 21, the examiner is not correct. Apertures 33 are not optional, and claim 31 is allowable.

Further, even if one were to disregard apertures 33, the end of outer tube 40 with annular lip 41 has an opening. This opening allows insertion of sample beam 71 into the outer tube. The end of outer tube 40 is secured through a nut assembly 60 and O-ring 65 to an inner tube 30. Column 2, lines 16–29. For at least this additional reason, claim 31 should be allowable.

Applicants believe all pending claims are allowable.

Respectfully submitted,

Aka Chan LLP

/Melvin D. Chan/

Melvin D. Chan

Reg. No. 39,626

Aka Chan LLP

900 Lafayette Street, Suite 710

Santa Clara, CA 95050

Tel: (408) 701-0035

Fax: (408) 608-1599

E-mail: mel@akachanlaw.com